Supreme Court, U.S.
FILED
SEP 17 1998
OFFICE OF THE CLERK

No. 98-413

IN THE

Supreme Court of the United States

OCTOBER TERM, 1997

LEGISLATURE OF THE STATE OF CALIFORNIA, ET AL.,

Appellants,

v.

THE UNITED STATES HOUSE OF REPRESENTATIVES, ET AL.,

Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF THE UNITED STATES HOUSE OF REPRESENTATIVES TO THE JURISDICTIONAL STATEMENT OF THE LEGISLATURE OF THE STATE OF CALIFORNIA, ET AL.

GERALDINE R. GENNET
General Counsel
KERRY W. KIRCHER
Deputy General Counsel
MICHAEL L. STERN
Senior Counsel
CAROLYN BETZ
Assistant Counsel
THE UNITED STATES HOUSE OF REPRESENTATIVES
Office Of The General Counsel

MAUREEN E. MAHONEY*
RICHARD P. BRESS
LATHAM & WATKINS
1001 Pennsylvania Avenue, NW
Suite 1300
Washington, D.C. 20004-2505
(202) 637-2200

Counsel For Appellee,
THE UNITED STATES HOUSE OF REPRESENTATIVES

*Counsel Of Record

QUESTIONS PRESENTED

1. Whether the Census Act, 13 U.S.C. 1 *et seq.* (1994 and Supp. II 1996), prohibits the Secretary from employing statistical sampling in determining the population for the purpose of apportioning Representatives among the States.

2. Whether the Census Clause of the Constitution, Article, 1, Section 2, Clause 3, which requires Congress to conduct an "actual Enumeration" of the population, prohibits the use of statistical sampling in determining the population for the purpose of apportioning Representatives among the States.

TABLE OF CONTENTS

QUESTIONS PRESENTED i

PARTIES TO THE PROCEEDINGS 1

RESPONSE 2

No. 98-413

IN THE

Supreme Court of the United States

OCTOBER TERM, 1997

LEGISLATURE OF THE STATE OF CALIFORNIA, ET AL.,

Appellants,

v.

THE UNITED STATES HOUSE OF REPRESENTATIVES, ET AL.,

Appellees

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

RESPONSE OF THE UNITED STATES HOUSE OF REPRESENTATIVES TO THE JURISDICTIONAL STATEMENT OF THE LEGISLATURE OF THE STATE OF CALIFORNIA, ET AL.

PARTIES TO THE PROCEEDINGS

Appellee agrees with the statement of the Parties to the Proceedings made by appellants.

RESPONSE

Appellants, the Legislature of California, *et al.*, have requested the Court to note probable jurisdiction pursuant to the Departments of Commerce, Justice, and State, the Judiciary and Related Agencies Appropriations Act, 1998, Pub. L. No. 105-119, § 209(e)(1), 111 Stat. 2482, and to consolidate this appeal with No. 98-404, *United States Dep't of Commerce v. United States House of Representatives*. Appellee, the United States House of Representatives, does not oppose this request.

Respectfully submitted,

GERALDINE R. GENNET
General Counsel
KERRY W. KIRCHER
Deputy General Counsel
MICHAEL L. STERN
Senior Counsel
CAROLYN BETZ
Assistant Counsel
THE UNITED STATES HOUSE
OF REPRESENTATIVES
Office Of The General Counsel

MAUREEN E. MAHONEY*
RICHARD P. BRESS
LATHAM & WATKINS
1001 Pennsylvania Avenue, NW
Suite 1300
Washington, D.C. 20004-2505
(202) 637-2200

Counsel For Appellee,
THE UNITED STATES HOUSE
OF REPRESENTATIVES

*Counsel Of Record

September 17, 1998